

James I

TRUE LAW OF FREE MONARCHIES

AND A SPEECH TO PARLIAMENT

One of the most articulate defenders of the divine right of monarchy was James VI, who was king of Scotland (1567-1625) and as James I (1603-1625) also was king of England. A scholar as well as a king, James in 1598 anonymously published a widely read book called the *True Law of Free Monarchies*. He claimed that the king alone was the true legislator. James's notions of the royal prerogative and of the role of Parliament are detailed in the following passages from the *True Law* and a speech to Parliament.

TRUE LAW

Prerogative and Parliament.

According to these fundamental laws already alleged, we daily see that in the parliament (which is nothing else but the head court of the king and his vassals) the laws are but craved by his subjects, and only made by him at their [proposal] and with their advice: for albeit the king make daily statutes and ordinances, [imposing] such pains thereto as he thinks [fit], without any advice of parliament or estates, yet it lies in the power of no parliament to make any kind of law or statute, without his sceptre [that is, authority] be to it, for giving it the force of a law And as ye see it manifest that the king is over-lord of the whole land, so is he

master over every person that inhabireth the same, having power over the life and death of everyone of them: for although a just prince will not take the life of any of his subjects without a clear law, yet the same laws whereby he taketh them are made by himself or his predecessors; and so the power flows always from himself. ... Where he sees the law doubts orne or rigorous, he may interpret or mitigate the same, lest otherwise *summum jus* be *summa injuria* [the greatest right be the greatest wrong]: and therefore general laws made publicly in parliament may upon ... [the king's] authority be mitigated and suspended upon causes only known to him.

As likewise, although I have said a good king will frame all his actions to be according

to the law, yet is he not bound thereto but of his good will, and for good example-giving to his subjects So as I have already said, a good king, though he be above the law, will subject and frame his actions thereto, for example's sake to his subjects, and of his own free will, but not as subject or bound thereto

In a speech before the English Parliament in March 1610, James elaborated on his exalted theory of the monarch's absolute power.

A SPEECH TO PARLIAMENT

... The state of monarchy is the supremest thing upon earth: for kings are not only God's lieutenants upon earth and sit upon God's throne, but even by God himself they are called gods. There be three principal [comparisons] that illustrate the state of monarchy: one taken out of the word of God, and the two other out of the grounds of policy and philosophy. In the Scriptures kings are called gods, and so their power after a certain relation compared to the Divine power. Kings are also compared to fathers of families: for a king is truly *parens patriae* [parent of the country], the politic father of his people. And lastly, kings are compared to the head of this microcosm of the body of man

I conclude then this point touching the power of kings with this axiom of divinity, That

as to dispute what God may do is blasphemy, ... so it is sedition in subjects to dispute what a king may do in the height of his power. But just kings will ever be willing to declare what they will do, if they will not incur the curse of God. I will not be content that my power be disputed upon; but I shall ever be willing to make the reason appear of all my doings, and rule my actions according to my laws

Now the second general ground whereof I am to speak concerns the matter of grievances First then, I am not to find fault that you inform yourselves of the particular just grievances of the people; nay I must tell you, ye can neither be just nor faithful to me or to your countries that trust and employ you, if you do it not But I would wish you to be careful to avoid [these] things in the matter of grievances.

First, that you do not meddle with the main points of government: that is my craft ... to meddle with that, were to lesson me. I am now an old king ... ;

I must not be taught my office.

Secondly, I would not have you meddle with such ancient rights of mine as I have received from my predecessors, possessing them *more majorum* [as ancestral customs]: such things I would be sorry should be accounted for grievances. All novelties are dangerous as well in a politic as in a natural body: and therefore I would be loath to be quarrelled in my ancient rights and possessions: for that were to judge me unworthy of that which my predecessors had and left me.

LEVIATHAN (1651) Thomas Hobbs

EXCERPT #1: About State of Nature

So that in the nature of man we find three principal causes of quarrel. First, competition; secondly, diffidence; thirdly, glory. The first maketh man invade for gain; the second, for safety; and the third, for reputation. The first use violence, to make themselves masters of other men's persons, wives, children, and cattle; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons or by reflection in their kindred, their friends, their nation, their profession, or their name.

Hereby it is manifest that, during the time men live without a common power to keep them all in awe, they are in that condition which is called war, and such a war as is of every man against every man. And therefore, if any two men desire the same thing which nevertheless they cannot both enjoy, they become enemies; and, in the way to their end, which is principally their own conservation and sometimes their delectation only, endeavor to destroy or subdue one another. [Hence, life in the state of nature is]"nasty, poor, brutish, and short."

Thoughts to consider:

How does Hobbes view the state of nature?

Why are men at war?

What does this say about how human nature?

EXCERPT # 2: About Gov't

The only way to govern... is to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and every one to own and acknowledge himself to be author of whatsoever he that so beareth their person shall act, or cause to be acted, in those things which concern the common peace and safety; and therein to submit their wills, every one to his will, and their judgments to his judgment. This is more than consent, or concord; it is a real unity of them all in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man: I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou give up, thy right to him, and authorize all his actions in like manner.

Thoughts to consider:

What type of government does Hobbes think is the correct form of government? Why?

Do you think Hobbes sees government as a good thing?



The famous cover engraving provided *Leviathan* with an enduringly striking image. A crowned giant emerges from the landscape, clutching a sword (symbol of earthly power) and a crosier (symbol of church power). The torso and arms are composed of over three hundred humans, showing how the people are represented by their contracted leader, who draws his strength from their collective agreement. Underneath is a quote from the Book of Job: “Non est potestas Super Terram quae Comparetur ei” (“There is no power on earth to be compared with him”), linking the figure to the Biblican monster, mentioned in Job, that Hobbes’s book is named after.

English Bill of Rights, 1689

Whereas the said late King James II having abdicated the government, and the throne being thereby vacant, his Highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal, and diverse principal persons of the Commons) cause letters to be written to the lords spiritual and temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and Cinque Ports, for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the two and twentieth day of January, in this year 1689, in order to such an establishment as that their religion, laws, and liberties might not again be in danger of being subverted; upon which letters elections have been accordingly made.

And thereupon the said lords spiritual and temporal and Commons, pursuant to their respective letters and elections, being new assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done), for the vindication and assertion of their ancient rights and liberties, declare:

1. That the pretended power of suspending laws, or the execution of laws, by regal authority, without consent of parliament is illegal.
2. That the pretended power of dispensing with the laws, or the execution of law by regal authority, as it hath been assumed and exercised of late, is illegal.
3. That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.
4. That levying money for or to the use of the crown by pretense of prerogative, without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal.
5. That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal.
6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.
7. That the subjects which are Protestants may have arms for their defense suitable to their conditions, and as allowed by law.
8. That election of members of parliament ought to be free.
9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.
10. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
11. That jurors ought to be duly impaneled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.
12. That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.
13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliament ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties....

Having therefore an entire confidence that his said Highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempt upon their religion, rights, and liberties:

The said lords spiritual and temporal, and commons, assembled at Westminster, do resolve that William and Mary, prince and princess of Orange, be, and be declared, king and queen of England, France, and Ireland....

Upon which their said Majesties did accept the crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said declaration.

Two Treatises of Government (1690) John Locke

Excerpt 1:

To understand political power, we must consider the condition in which nature puts all men. It is a state of perfect freedom to do as they wish and dispose of themselves and their possessions as they think fit, within the bounds of the laws of nature. They need not ask permission or the consent of any other man. The state of nature is also a state of equality. No one has more power or authority than another. Since all human beings have the same advantages and the use of the same skills, they should be equal to each other. The state of nature has a law of nature to govern it. Reason is the law. It teaches that all men are equal and independent, and that no one ought to harm another in his life, liberty, or possessions. All men are made by one all-powerful and wise Maker. They are all servants of one Master who sent them into the world to do His business. He has put men naturally into a state of independence, and they remain in it until they choose to become members of a political society.

Thoughts to consider:

What is the "state of nature"

What is the "Law of Nature"

How does man live in the State of Nature? According to Locke, why is living in the state of nature dangerous?

According to Locke, when are men no longer in "a state of independence"?

Excerpt 2:

If a man in the state of nature is free, if he is absolute lord of his own person and possessions, why will he give up his freedom? Why will he put himself under the control of any person or institution? The obvious answer is that the rights in the state of nature are constantly exposed to the attacks of others. Since every man is equal and since most men do not concern themselves with equity and justice, the enjoyment of rights in the state of nature is unsafe and insecure. Hence each man joins in society with others to preserve life, liberty, and property.

Thoughts to consider:

According to Locke, why would man want to join others and enter a society when he is his own master over his property and possessions?

According to Locke, what are the fundamental natural rights all men are entitled to?

Excerpt 3:

Since men hope to preserve their property by establishing a government, they will not want that government to destroy this objective. When legislators (*lawmakers*) try to destroy or take away the property of the people, or try to reduce them to slavery, they put themselves into a state of war with the people who can then refuse to obey the laws. When legislators try to gain or give someone else absolute power over lives, liberties, and property of the people, they abuse the power which the people had put into their hands. It is then the privilege of the people to establish a new legislature to provide for their safety and security. These principles also hold true for the executive who helps to make laws and carry them out.

Thoughts to consider:

What does Locke say man has the right to do when the government tries to pass unfair laws or tries to destroy or take away the property of the people?

Excerpt 4:

Perhaps some will say that the people are ignorant and discontented (*unhappy*) and that a government based on their unsteady opinion and uncertain humor will be unstable. They might argue that no government can exist for long if the people may set up a new legislature whenever they do not like the old one. But people do not easily give up their old forms of government. In England, for example, the unwillingness of the people to throw out their old constitution has kept us to, or brought us back to, our old legislature of king, lords, and commons.

Thoughts to consider:

What role do the people play in government? What power do the people have in government?

Why does he say that people tend to go back to a government with a king when people may not like a new government created by the people?

Why do you think Locke says going back to a government headed by a king be dangerous?

Discussion Questions

1. What was King James I's view of the role of the monarchy? From where did he believe this power evolved? Why might he have felt this way?
2. Thomas Hobbes believed that absolutism was the best form of government. What are some reasons that support this position? What arguments contradict this notion?
3. John Locke believed that the people give their rulers their consent rule. What are some of the benefits that you think exist with this policy? What are some of negative aspects of this notion?
4. In what specific ways did the English Bill of Rights contradict the goals and concepts of monarchs as described by King James I in *The True Law of Monarchies*?
5. How do you think Thomas Hobbes and John Locke would feel about the current election? What arguments would each present that would defend their position as the best one in this case?